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WELLA OPERATIONS US LLC

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

MARCIA ANN STONE
BOUKNIGHT, an individual,

Plaintiff,

v.

WELLA OPERATIONS US, LLC;
COTY, INC.; CLAIROL; KOHLBERG
KRAVIS ROBERT & CO. a/k/a KKR
& CO., INC.; BRISTOL-MYERS
SQUIBB; PROCTER & GAMBLE
HAIR CARE, LLC; JOHN PAUL
MITCHELL SYSTEMS; and
JOHN DOE CORPORATIONS 1-100,
inclusive,

Defendants.

Case No. 2:25-cv-04067

Hon.

**NOTICE OF REMOVAL AND
REMOVAL OF ACTION
PURSUANT TO 28 U.S.C. §§ 1332,
1441, AND 1446 BY DEFENDANT
WELLA OPERATIONS US LLC**

*[Filed concurrently with Declaration of
Shannon E. Beamer]*

*[Los Angeles Superior Court Case No.
25STCV12051]*

Action Filed: April 23, 2025
Action Removed: May 6, 2025
Trial Date: None Set

**TO THE HONORABLE COURT, ALL PARTIES HEREIN, AND
THEIR RESPECTIVE ATTORNEYS OF RECORD:**

PLEASE TAKE NOTICE that pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, Defendant Wella Operations US LLC (“Wella” or “Defendant”) removes Plaintiff Marcia Ann Stone Bouknight’s (“Plaintiff”) action from the Superior Court of California, County of Los Angeles to the United States District Court for the Central District of California.

In support of the removal, Wella respectfully states as follows:

1. This is a civil action, filed on or about April 23, 2025, by Plaintiff Marcia Ann Stone Bouknight in the Superior Court of the State of California, County of Los Angeles, entitled *Marcia Ann Stone Bouknight v. Wella Operations US, LLC, et al.*, Los Angeles County Superior Court Case No. 25STCV12051. Attached to the Declaration of Shannon E. Beamer (“Beamer Decl.”) as **Exhibits A-E** is a true and correct copy of the state court filings Defendant obtained, including the Complaint, Alternate Dispute Resolution Packet, Certificate of Mailing, and Minute Order re: Complex Designation, as well as the state court docket as of the time of filing.

2. This case is properly removed to this Court under 28 U.S.C. § 1441 because Defendant has satisfied the procedural requirements for removal and this Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1332.¹

3. This action is among citizens of different states: (1) Plaintiff is, and was, at the time the Complaint was filed, a citizen of South Carolina; (2) Wella is now, and was at the time this action commenced, a citizen of California and Delaware; (3) Coty Inc. is a citizen of New York and Delaware; (4) the erroneously

¹ Defendant files this Notice of Removal without submitting or consenting to the personal jurisdiction of this Court and expressly reserves the right to challenge this Court’s ability to exercise personal jurisdiction over Defendant in this case, including through a motion to dismiss for lack of personal jurisdiction under Federal Rule of Civil Procedure 12(b)(2).

1 named Clairol is not a separate entity but a brand name under Wella Operations US,
 2 LLC, which, as aforementioned, is a citizen of California and Delaware; (5)
 3 Kohlberg Kravis Robert & Co. a/k/a KKR & Co. Inc. is now, and was at the time
 4 this action commenced, a citizen of New York and Delaware; (6) Bristol Myers
 5 Squibb is now, and was at the time this action commenced, a citizen of Delaware
 6 and New Jersey; (7) Procter & Gamble Hair Care, LLC is now, and was at the time
 7 this action commenced, a citizen of Delaware and Ohio; and (8) John Paul Mitchell
 8 Systems is now, and was at the time this action commenced, a citizen of California.

9 4. Furthermore, the alleged amount in controversy exceeds \$75,000,
 10 exclusive of interest and costs, for the reasons more fully briefed below.

11 **I. PROCEDURAL HISTORY**

12 5. On April 23, 2025 Plaintiff filed a complaint for damages against
 13 Defendants in Los Angeles Superior Court.² *See Marcia Ann Stone Bouknight v.*
 14 *Wella Operations US, LLC, et al.*, case number 25STCV12051; Beamer Decl., ¶ 3,
 15 **Ex. A.**

16 6. Plaintiff's Complaint asserts six causes of action for (1) Strict
 17 Liability—Failure to Warn; (2) Strict Liability—Design Defect – Risk-Utility Test;
 18 (3) Strict Liability—Design Defect – Consumer Expectations Test; (4) Negligent
 19 Failure to Warn; (5) Deceit by Concealment; (6) Violations of California Unfair
 20 Competition Law (UCL). *See id.*, **Ex. A.**

21 **II. ALL PROCEDURAL REQUIREMENTS ARE SATISFIED**

22 7. Under 28 U.S.C. § 1441(a), “any civil action brought in a state court of
 23 which the district courts of the United States have original jurisdiction, may be
 24 removed by the defendant or the defendants, to the district court of the United States
 25 for the district and division embracing the place where such action is pending.”
 26

27 ² All real Defendant entities named in this lawsuit have not been served or have
 28 consented to removal. Beamer Decl., ¶ 9.

8. Pursuant to 28 U.S.C. §§ 84(c), 1441(a), and 1446(a), this Notice of Removal is being filed in the United States District Court for the Central District of California. Venue for this action is proper in this Court under 28 U.S.C. § 1441(a) because Los Angeles County is located within the United States District Court for the Central District of California. *See* 28 U.S.C. § 84(c). Accordingly, the Central District of California is the federal “district and division embracing the place where such action is pending.” 28 U.S.C. § 1441(a).

9. Wella’s removal is timely under 28 U.S.C. § 1446(b)(1) because Wella has not been properly served with the Complaint. Thus, Wella’s time to remove this case has not expired. Beamer Decl., ¶ 2.

10. On information and belief, no other Defendant in this action has been served to date. It is the longstanding rule in the Ninth Circuit that defendants named but not yet served in the state court action need not join in a notice of removal. *See, e.g., Cmty. Bldg. Co. v. Maryland Cas. Co.*, 8 F.2d 678, 679 (9th Cir. 1925) (“defendants over whom the court has not acquired jurisdiction may be disregarded in removal proceedings”); *Destfino v. Reiswig*, 630 F.3d 952, 957 (9th Cir. 2011) (“Because none of the non-joining defendants was properly served, their absence from the removal notice did not render the removal defective.”)

11. There has been no process, pleadings, or orders properly served upon Wella in this action. 28 U.S.C. § 1446(a). However, Wella concurrently files herewith true and correct copies of all process, pleadings, and orders found on the docket of the Los Angeles Superior Court for this matter. Beamer Decl., **Exs. A-E**. The other defendants, the unknown “DOES 1-100,” are not required to join in or consent to removal. *See United Computer Sys., Inc. v. AT & T Corp.*, 298 F.3d 756, 762 (9th Cir. 2002) (noting that the “rule of unanimity” for removal does not apply to “nominal, unknown or fraudulently joined parties”); *Fristoe v. Reynolds Metals Co.*, 615 F.2d 1209, 1213 (9th Cir. 1980) (holding that removal to federal court was proper as “the unknown defendants sued as ‘Does’ need[ed] not be joined in a

removal petition”). Thus, Defendants may remove without any other parties’ concurrence.

12. Pursuant to 28 U.S.C. § 1446(d), Wella shall serve written notice of this removal to Plaintiff and is filing the notice with the Clerk of the Los Angeles Superior Court. Proof of the same will be filed with this Court.

III. DIVERSITY JURISDICTION

13. This Court has subject matter jurisdiction over this action under 28 U.S.C. § 1332(a)(1) on the grounds that there is complete diversity citizenship between Plaintiff and Defendants and the amount in controversy exceeds \$75,000 exclusive of interest and costs.

A. There Is Complete Diversity of Citizenship

1. Plaintiff’s Citizenship

14. Plaintiff is a citizen of Newberry County in the state of South Carolina. Beamer Decl., **Ex. A** (Compl., ¶ 1.)

2. Defendants’ Citizenships

15. For the purposes of diversity, a corporation is deemed to be a citizen of the state in which it has been incorporated and where it has its principal place of business. 28 U.S.C. § 1332(c)(1).

16. For diversity purposes, a limited liability company “is a citizen of every state of which its owners/members are citizens.” *Johnson v. Columbia Props. Anchorage, LP*, 437 F. 3d 894, 899 (9th Cir. 2006).

17. Wella Operations US LLC is incorporated in Delaware and maintains a principal place of business in California. Beamer Decl., ¶ 8. Its sole member is Waves UK DivestCo Ltd, which is a UK company. The erroneously named defendant Clairol is not a separate entity, but a brand name under Wella Operations US LLC. Thus, for diversity purposes, the erroneously named Clairol and Defendant Wella Operations US LLC are citizens of Delaware, California, and the UK, and are completely diverse from Plaintiff.

1 18. Coty Inc. is incorporated in Delaware and maintains a principal place
2 of business in New York. Thus, for diversity purposes, Coty, Inc. is a citizen of
3 Delaware and New York and is completely diverse from Plaintiff.

4 19. Kohlberg Kravis Robert & Co. a/k/a KKR & Co. Inc. is incorporated in
5 Delaware and maintains a principal place of business in New York. Thus, for
6 diversity purposes KKR & Co. Inc. is a citizen of Delaware and New York and is
7 completely diverse from Plaintiff.

8 20. Bristol Myers Squibb is incorporated in Delaware and maintains a
9 principal place of business in New Jersey. Thus, for diversity purposes Bristol Myers
10 Squibb is a citizen of Delaware and New Jersey and is completely diverse from
11 Plaintiff.

12 21. Procter & Gamble Hair Care, LLC is incorporated in Delaware and
13 maintains a principal place of business in Ohio. Procter & Gamble Hair Care, LLC
14 is a wholly owned subsidiary of P&G Hair Care Holding, Inc., which is incorporated
15 in Delaware and maintains a principal place of business in Ohio. Thus, for diversity
16 purposes, Procter & Gamble Hair Care, LLC is a citizen of Delaware and Ohio and
17 is completely diverse from Plaintiff.

18 22. John Paul Mitchell Systems is incorporated in California and has a
19 principal place of business in California. Thus, for diversity purposes, John Paul
20 Mitchell Systems is a citizen of California and is completely diverse from Plaintiff.

21 23. As of the time of filing this Notice of Removal, John Paul Mitchell
22 Systems has not been properly joined and served with Plaintiff's Complaint.

23 24. Although Wella Operations US LLC and John Paul Mitchell Systems
24 are citizens of California, their citizenship does not make removal improper under
25 either 28 U.S.C. §§ 1332(a)(1) or 1441(b)(2) because they have not been properly
26 joined and served. *Zirkin v. Shandy Media, Inc.*, 2019 WL 626138, at *2 (C.D. Cal.
27 Feb. 14, 2019), citing *Monfort v. Adomani*, 2019 WL 131842, at *3 (N.D. Cal. Jan.
28 8, 2019) ("the Forum Defendant Rule does not bar an in-state defendant from

removing an action before the defendant is served”); *Country Cas. Ins. Co. v. Hyundai Motor Am.*, 2025 WL 242194, at *2 (C.D. Cal. Jan. 16, 2025) (“[T]he plain text of § 1441(b)(2) does not create a bar to removal unless the forum defendant has been “properly joined and served.”); *Casola v. Dexcom, Inc.*, 98 F.4th 947, 964 n.17 (9th Cir. 2024) (“Three sister circuits have held that § 1441(b)(2), by its plain text, permits snap removals...”). Plaintiff’s complaint was endorsed as officially filed by the clerk of Los Angeles Superior Court on April 23, 2025 at 4:22 PM. Beamer Decl., **Ex. A** (Compl., p. 1).

3. Doe Defendants Are Disregarded for Diversity Purposes

25. As stated above, any potential “Doe” defendants are disregarded for the purposes of diversity, as these are fictitious defendants.³ See 28 U.S.C. § 1441(b)(1)

³ In the event that any DOE defendants are forum defendants, i.e., citizens of California for diversity purposes, it is not a bar to removal under 28 U.S.C. section 1441(b), which provides that removal is allowed only if “none of the parties in interest properly joined and served as defendants is a citizen of the State in which such action is brought.” 28 U.S.C. § 1441(b). Under the plain language of Section 1441(b), the no forum defendant rule applies only once such defendant has been properly joined and served. *Id.*; see also *Allen v. Eli Lilly & Co.*, 2010 WL 3489366, at *2 (S.D. Cal. Sept. 2, 2010) (denying motion to remand and upholding the removal of the action, finding the presence of local defendants did not preclude removal jurisdiction because no local defendant was a party to the action at the time of removal and complete diversity of the parties continues to exist after the local defendants were or are served and made parties); *Zirkin v. Shandy Media, Inc.*, 2019 WL 626138, at *2 (C.D. Cal. Feb. 14, 2019) (denying motion to remand and upholding the forum defendants’ removal before service, finding “the Forum Defendant Rule did not bar an in-state defendant from removing an action before the defendant is served.”); *May v. Haas*, 2012 WL 4961235, at *3 (E.D. Cal. Oct. 16, 2012) (denying motion to remand and upholding the removal of the action, finding that the forum defendant had not been served at the time the non-forum defendant removed the case and complete diversity continues to exist between the parties after the forum defendant has been served.); *Loewen v. McDonnell*, 2019 WL 2364413, at *9 (N.D. Cal. June 5, 2019) (denying motion to remand, finding the removal was effective before any forum defendant was served and complete diversity continues to exist between the parties); *id.* at *7 (holding “the Northern District of California

(“In determining whether a civil action is removable on the basis of the jurisdiction under section 1332(a) of this title, the citizenship of defendants sued under fictitious names shall be disregarded.”); *see also Newcombe v. Adolf Coors Co.*, 157 F.3d 686, 690–91 (9th Cir. 1998).

26. Further, Plaintiff does not make any specific allegations against any potential “Doe” defendants. *See generally*, Beamer Decl., **Ex. A**.

4. Complete Diversity Exists

27. The diversity requirement of 28 U.S.C. § 1332(a)(1) is satisfied given that Plaintiff is a citizen of South Carolina, no Defendant is a citizen of South Carolina, and the citizenship of potential Doe Defendants are irrelevant.

5. The Amount in Controversy Exceeds \$75,000

28. Plaintiff claims damages in excess of the \$75,000 threshold in 28 U.S.C. § 1332(a).⁴

29. “[T]he notice of removal may assert the amount in controversy if the initial pleading seeks: (i) nonmonetary relief; or (ii) a money judgment, but the State

has consistently held a defendant may remove an action prior to receiving proper service, even when the defendant resides in the state in which the plaintiff filed the state claim”); *Cucci v. Edwards*, 510 F. Supp. 2d 479, 482 (C.D. Cal. 2007) (holding that “a resident defendant who has not been served may be ignored in determining removability”); *City of Ann Arbor Employees’ Retirement Sys. v. Gecht*, 2007 WL 760568, at *8 (N.D. Cal. Mar. 9, 2007) (holding that “[p]laintiff should have been cognizant of the fact that a nonresident defendant could remove a case without having been served”); *Republic W. Ins. Co. v. Int’l Ins. Co.*, 765 F. Supp. 628, 629 (N.D. Cal. 1991) (denying motion for remand where local defendant had not been served at time of removal).

⁴ Wella acknowledges only that the amount Plaintiff puts in controversy in her Complaint exceeds \$75,000, but neither admits nor concedes the truth of any of Plaintiff’s allegations or that Plaintiff is entitled to relief in that amount or any amount whatsoever. Wella expressly denies all of Plaintiff’s allegations, contentions, causes of actions, claims, and damages, and reserves all defenses and rights. *See Lewis v. Verizon Comm., Inc.*, 627 F.3d 395, 400 (9th Cir. 2010) (to establish the jurisdictional amount, a removing defendant need not concede liability for that amount).

practice either does not permit demand for a specific sum or permits recovery of damages in excess of the amount demanded[.]” 28 U.S.C. § 1446(c)(2)(A).

30. “[W]hen a defendant seeks federal-court adjudication, the defendant’s amount-in-controversy allegation should be accepted when not contested by the plaintiff or questioned by the court.” *Dart Cherokee Basin Operating Co., LLC v. Owens*, 574 U.S. 81, 87 (2014).

31. Removal is proper where the “district court finds, by the preponderance of the evidence, that the amount in controversy exceeds” the jurisdictional threshold. 28 U.S.C. § 1446(c)(2)(B). “Under [the preponderance of the evidence] burden, the defendant must provide evidence establishing that it is ‘more likely than not’ that the amount in controversy exceeds that amount.” *Sanchez v. Monumental Life Ins. Co.*, 102 F.3d 398, 404 (9th Cir. 1996). This “burden is not daunting, as courts recognize that under this standard, a removing defendant is not obligated to research, state, and prove the plaintiffs’ claims for damages.” *Korn v. Polo Ralph Lauren Corp.*, 536 F. Supp. 2d 1199, 1204-05 (E.D. Cal. 2008) (internal quotations omitted); *see also Valdez v. Allstate Ins. Co.*, 372 F.3d 1115, 1117 (9th Cir. 2004) (“[T]he parties need not predict the trier of fact’s eventual award with one hundred percent accuracy”).

32. In measuring the amount in controversy, a court must assume that the allegations of the complaint are true and that a jury will return a verdict for the plaintiff on all claims made in the complaint. *Kenneth Rothschild Tr. v. Morgan Stanley Dean Witter*, 199 F. Supp. 2d 993, 1001 (C.D. Cal. 2002) citing *Burns v. Windsor Ins. Co.*, 31 F.3d 1092, 1096 (11th Cir. 1994) (The “amount in controversy analysis presumes that ‘plaintiff prevails on liability’ “). Put differently, “[t]he amount in controversy is simply an estimate of the total amount in dispute, not a prospective assessment of [the defendant’s] liability.” *Lewis v. Verizon Commc’ns, Inc.*, 627 F.3d 395, 400 (9th Cir. 2010).

33. Economic damages, non-economic damages, general damages,

attorneys' fees, punitive damages, and injunctive relief are all included in determining the amount in controversy. *See Anthony v. Sec. Pac. Fin. Servs., Inc.*, 75 F.3d 311, 315 (7th Cir. 1996) (Prayer for actual and punitive damages included in determining amount in controversy); *Galt G/S v. JSS Scandinavia*, 142 F.3d 1150, 1155-56 (9th Cir. 1998) (Prayer for attorneys' fees included in determining the amount in controversy where potentially recoverable by statute).

34. In her complaint, Plaintiff prays for "[p]ast and future" "general damages," "economic and special damages," "medical expenses," and "pain and suffering" for her alleged diagnosis of bladder cancer. *See* Beamer Decl., **Ex. A** (Compl. at pp. 33-34). Plaintiff also seeks "Attorney's fees" and "Punitive or exemplary damages." *Id.* at 34.

35. Courts have found that the amount in controversy requirement is satisfied when a complaint alleges serious bodily injuries. *Fjelstad v. Vitamin Shoppe Indus. LLC*, 2021 WL 364638, at *4 (C.D. Cal. Feb. 3, 2021) ("in cases alleging 'severe injuries, especially those requiring surgery, courts have found it facially apparent from the complaint that the amount in controversy was satisfied' despite the plaintiffs' failure to plead a dollar amount.") (citations omitted). Here, Plaintiff alleges that they developed cancers and incurred substantial medical expenses, as well as pain and suffering.

36. Therefore, it is apparent from the face of the Complaint that the alleged injuries result in an amount in controversy exceeding \$75,000.

IV. RESERVATION OF DEFENSES AND RIGHTS

37. By removing this action from the Los Angeles Superior Court, Wella neither admits any of the allegations in Plaintiff's Complaint nor waives any defenses or rights.

38. By removing this case to federal court, Defendants do not consent to personal jurisdiction, do not concede that this Court is a convenient forum, and do not waive any of their defenses or objections under Federal Rule of Civil Procedure

12(b), or otherwise. *See, e.g., Freeney v. Bank of Am. Corp.*, 2015 WL 4366439, at *20 (C.D. Cal. July 16, 2015) (“A defendant's election to remove a case to federal court does not waive a personal jurisdiction defense.”).

39. This Notice of Removal has been signed pursuant to Fed. R. Civ. P. 11.

40. If Plaintiff seeks to remand this case to state court, Defendants respectfully ask that they be permitted to brief and argue the issue of this removal prior to any order remanding this case. In the event that the Court decides that remand is proper, Defendants ask that the Court retain jurisdiction and allow them to file a motion asking this Court to certify any remand order for interlocutory review by the Ninth Circuit, pursuant to 28 U.S.C. § 1292(b).

V. CONCLUSION

41. Removal is proper given that all requirements for removal under 28 U.S.C. § 1332(a) have been met; there is complete diversity citizenship between the parties; and the amount in controversy exceeds \$75,000.

42. Wella respectfully requests that these proceedings be removed to this Court.

Dated: May 6, 2025

VENABLE LLP

By: /s/ Shannon E. Beamer
Shannon E. Beamer
Caitlin C. Blanche
Rita Mansuryan
Kaidyn P. McClure

Attorneys for Defendant
WELLA OPERATIONS US LLC